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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: David G. Wang et al.

Serial No.: 10/016,624

Filed: December 10, 2001

For: Heat Sink For Enhanced Heat
Dissipation

§ Group Art Unit: 3743

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Examiner: Niher B. Patel

Atty. Dkt. No.: 9926 (NCR.0057US)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450PETITION TO TRAVERSE RESTRICTION REQUIREMENT

Dear Sir:

The following restriction requirement, now made final, is currently asserted against the present application:

Specie I: Figure 2;
Specie II: Figures 3-5;
Specie III: Figure 6.

Figure 2 illustrates a system having heat producing devices with heat sinks mounted on the devices. Specification, ¶ [0007]. Figure 3 shows a portion of a heat sink 106 or 108 used in the system of Figure 2. Specification, ¶¶ [0025]-[0027]. Figure 4 shows the remaining portion of the heat sink 106 or 108, namely heat block 120. Figure 5 is a cross-sectional view of the heat sink of Figure 4. Specification, ¶ [0010]. Figure 6 illustrates an example heat pipe useable in the heat sink of Figure 4. Specification, ¶ [0010].

Date of Deposit: <u>July 19, 2004</u>
I certify that this document and authorization to charge deposit account is being facsimile transmitted to the Commissioner for Patents Office (Fax No. 703/872-9306) on the date indicated above.
<u>Dawn L. Thomas</u>
Dawn L. Thomas

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Figures 3, 4, 5 are detailed depictions of portions of heat sinks used in the system of Figure 2. Therefore, Figures 3, 4, 5 should not be identified as a specie distinct from Figure 2.

As stated by the MPEP, claims to be restricted to different species must be mutually exclusive. MPEP § 806.04(f) at 800-41. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first specie but not in a second, while a second claim recites limitations disclosed only for the second specie and not the first. *Id.* Here, the features of Figures 3, 4, and 5 are found in the heat sinks 106 and 108 depicted in Figure 2. Therefore, the test of mutual exclusivity necessarily fails. Reversal of the restriction requirement is respectfully requested.

The "specie" of Figure 2 (elected by Applicant) has two types of heat sinks: (1) the heat sink 108 connected to heat pipes 107; and (2) heat sinks 106. The details of each of the heat sinks 106 and 108 are depicted in Figures 3, 4, 5. By electing the specie of Figure 2, Applicant has elected claims readable on a system having heat sink 106 and heat sink 108 (with respective embedded heat pipes). It is respectfully submitted that *all* pending claims 1-43 are readable on the elected "specie" of the Figure 2. In view of this, the Office Action has incorrectly indicated that claims 6-10, 16, 20, 22, 23, 27-39, and 43 are withdrawn.

Therefore, it is respectfully requested that the Examiner's restriction requirement be reversed. Please charge any fees for this Petition to Deposit Account No. 50-1673 (9926). The Commissioner is authorized to charge any additional fees, including extension of time fees, and/or credit any overpayment to Deposit Account No. 50-1673 (9926).

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Respectfully submitted,

Date:

July 19, 2004



Dan C. Hu, Reg. No. 40,025
TROP, PRUNER & HU, P.C.
8554 Katy Freeway, Suite 100
Houston, TX 77024
713/468-8880 [Ph]
713/468-8883 [Fax]